REMARKS

The Examiner has again rejected Claims 1-63 under 35 U.S.C. 102(e) as being anticipated by Gampper et al. (hereinafter, "Gampper," 6,003,082). Applicant respectfully disagrees with such rejection.

Specifically, in response to applicant's previous amendments and remarks, the Examiner argues that "Gampper discloses sending advisory messages to the terminal informing them of the status of their download/download request. A request/download can be delayed or terminated based on the information stored in the user's profile (client). The user's are given priorities, access times, prohibited downloads, permissible sizes of downloads, etc. All of these attributes are taken into consideration when downloading to a client terminal. Therefore, if the user (client) makes changes to the profile, it is a controlling factor determining the download status of a file."

In response, applicant first notes that, from the Examiner's first statement, it appears that the Examiner is relying on Gampper's "advisory messages" to meet applicant's claimed "download controlling message." Applicant emphasizes that Gampper's "advisory messages" in no way control the manner in which the terminal downloads a file. Instead, Gampper's "advisory messages" merely notify the user of a delay.

The Examiner then argues that the download can be controlled (i.e. terminated, delayed, etc.) based on information stored in the user's profile. Whether Gampper suggests this or not, such teaching simply does not meet applicant's claims, since such information stored in the user's profile does not meet applicant's claimed "download controlling message," since the information to which the Examiner refers is not sent from a source computer to the target computers, as claimed by applicant.

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Continuing through the Examiner's latest arguments above, the Examiner continues by alleging that the users are given priorities, access times, prohibited downloads, permissible sizes of downloads, etc., and then indicates that all of these attributes are taken into consideration when downloading to a client terminal. Again, whether this is true or not, applicant emphasizes that such "priorities, access times, prohibited downloads, permissible sizes of downloads, etc" do not meet applicant's claimed "download controlling message," since such criteria are not sent from a source computer to the target computers, as claimed by applicant.

After the foregoing deficient arguments, the Examiner then concludes that "if the user (client) makes changes to the profile, it is a controlling factor determining the download status of a file." Again, whether this is true or not, any change to the profile by the user in no way suggests any sort of download controlling message that is sent from said source computer to said target computers, in order to control the manner in which said target computers request said downloading of said computer file. Note applicant's claims.

Applicant respectfully asserts that the Examiner's continued attempt to map applicant's claims to Gampper is in error, and applicant respectfully requests reconsideration in view of the foregoing arguments.

Referring now to the Examiner's substantive arguments, applicant notes that the Examiner now relies on the following excerpts from Gampper to make a prior art showing of applicant's claimed "wherein said download controlling message is sent from said source computer to said target computers, in order to control the manner in which said target computers request said downloading of said computer file." See all of the independent claims.

"Notification may be sent to the user advising him/her of any delay and the status of the user's internet request." (col. 2, lines 58-60)

"and the server 101 notifies the user of the completion of the download request and resulting availability of this data. …

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The server 101 may also send an advisory message to the requesting terminal 104, notifying the user of the delay. ...

The server 101 may also send an advisory message to the requesting terminal 104, notifying the user of the delay." (col. 10, lines 18-19, 37-40, and 50-52).

Again, the foregoing excerpts merely suggest a notification of delay and status of requested data. Such delay and status notification in no way constitutes a download controlling message, as claimed by applicant, since Gampper's delay and status notification fails to control the manner in which said target computers request said downloading of said computer file. Only applicant teaches and claims a message sent from a source to target computers for the specific purposes of controlling the downloading of a computer file from the source to target computers.

The Examiner is again reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Gampper reference, since the Examiner's attempt to map applicant's claims to Gampper's teachings is clearly deficient. Thus, a notice of allowance, or a specific prior art showing of the foregoing claim limitations, in the context of the remaining claim elements, is respectfully requested.

Still yet, applicant notes that the Examiner has not responded to applicant's previous arguments regarding applicant's dependent claims (see Claim 2, in particular). Specifically, the application of the Gampper reference to applicant's dependent claims is clearly deficient, as Gampper completely lacks the crux of applicant's claimed invention. Just by way of example, not only does Gampper not even suggest sending a

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download controlling message from a source computer to a plurality of target computers, Gampper further fails to even suggest the specific download controlling message-related method set forth below (note emphasized language, in particular):

"said download controlling message includes a broadcast message, said method comprising the steps of:

issuing said broadcast message from said source computer to said plurality of target computers indicating availability of said computer file for download from said source computer, said broadcast message including at least one download qualifying parameter;

receiving said broadcast message at said plurality of target computer;

determining for each target computer of said plurality of target computers that received said broadcast message whether or not said target computer already has said computer file;

determining for each target computer that does not already have said computer file in dependence upon said at least one download qualifying parameter whether or not said target computer qualifies to download said computer file in response to said broadcast message;

downloading said computer file from said source computer to those target computers that do not already have said computer file and that qualify to download said computer file;

monitoring how many target computers download said computer file in response to said broadcast message; and

adjusting at least one download parameter used in a following broadcast message issued by said source computer in dependence upon how many target computers downloaded said computer file in response to said broadcast message" (see Claim 2 et al.)

Again, a specific prior art showing of such details or an indication of allowability is respectfully requested.

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Reconsideration is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P160/00.110.01).

Respectfully submitted,
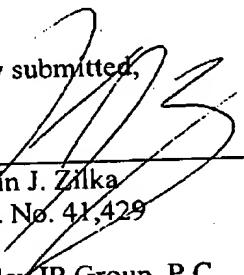
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